

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H21-0087-19 **Applicant:** Ms S Cook & Mr C Moore

Proposal: Use of site for keeping of more than 6 dogs for breeding purposes

Location: Schnauzerhaus Parsonage Lane Sutton St James

Terminal Date: 27th April 2019

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

This is a legal determination and Planning Policy is not relevant to the determination as to whether the claimed proposed use is lawful. The decision is based upon the case officer's judgment as the case being proven.

This application seeks the granting of a Lawful Development Certificate (LDC) for the continued use of the dwelling for over 10 years for the keeping of more than 6 dogs for domestic purposes and small scale dog breeding, on the land outlined in red on the submitted plan.

The applicant has confirmed that she is a hobby breeder and small/ select show/breeder kennel specialising only in the three sizes of Schnauzer and usually has 3-5 litters of puppies per year. The additional evidence submitted by the applicant confirms that they have not had any more 16 adult dogs over the period of 10 years and that they currently number 16 which consists of the various sizes of Schnauzer. The applicant has submitted the following evidence in support:

- 1.Accredited Breeder information from Kennel Club dating back to January 2009
- 2.Examination Certificates for 6+ dogs.
- 3.Independent verification of the keeping of over 6 dogs consistently for over 10 years from applicants Veterinarian.
- 4.Application form
- 5.Additional evidence from applicant in an email dated 2nd April 2019.
- 6.Site Plan

The application seeks confirmation from the Council that the keeping of 16 permanent adult dogs in existing kennels with small scale breeding, in the area highlighted on the application plan at Schnauzerhaus, Parsonage Lane, Sutton St James would be lawful under s.191 of the Town and Country Planning Act 1990.

The legal test the applicant must satisfy is that the evidence submitted on the balance of probabilities proves that the change of use has been on-going for a continuous period of 10 years. The use must be a continuous use through the 10 years with no significant breaks in use.

The Site and Location

The application site is located at Sutton St James and consists of a detached dwelling set in large grounds, there are no immediate neighbours as the built form along Parsonage Lane can be described well-spaced with 2 properties on the opposite side of the road and a neighbour on the same side but separated by garden/farmland.

The Evidence

The applicant has submitted evidence to suggest that they have at least since January 2009, bred and kept over 6 Schnauzers. The Kennel club records confirms a number of health checks for breeding and the family Vet has confirmed in writing that for over 10 years they have cared for more than 6 dogs at any one time at this address for the applicant. The applicant has provided written confirmation of the maximum number of 16 adult dogs (excluding the litters of puppies sold) and also provided a comprehensive list of all dogs, including show names, which tally with the Kennel Club records.

The applicant's evidence confirms that on average they breed 3-5 litters per year and apply the standards of the Assured Breeders Scheme which registers the litters under a certification scheme. The evidence submitted confirms the exact dogs kept and further correspondence with the applicant has established that the maximum number of adult dogs kept over the 10 year period is 16 adult dogs.

One objection has been made however this is very general complaint regarding 'dogs' in the area generally and refers to as being the introduction of dogs rather than the current or historic keeping of dogs at this property. The comments do not address the 10 years use nor is it specific to the application, therefore on this basis it has not been considered a relevant representation, in what is a legal and evidenced based consideration.

On the balance of probabilities the evidence must demonstrate 10 years of a specific use. In this case the start date for the keeping of over 6 dogs is at least 10 years from when the applicant was registered with the Kennel Club as a breeder with details of all dogs. What is notable with the application is that the number of dogs must fluctuate, depending on the number of puppies born at any one time. In these cases, due to the fact that the puppies reside at the property for a short period of time for whelping before being sold on, it is not productive to include these dogs in the numbers due to the relatively short period of time that the dogs reside here before moving to the new home. The maximum number of dogs kept through the 10 year period is based on the adult dogs that permanently reside there through the relevant period. The certificate has been considered in terms of adult dogs which are dogs over 15 months old.

No other representations have been received which questions the evidence submitted and the Council holds no other evidence to the contrary. On balance the applicant's evidence in the form of written evidence, kennel club records and independent verification from the local Vet, it is on balance clear and unambiguous enough to prove the case on the balance of probabilities.

To conclude, and based upon the evidence provided in the application the certificate should succeed as on the balance of probabilities the following has been demonstrated:

- The required 10 year period.
- That the use of the land edged red on the application plan has been used for the keeping of up to 16 permanent adult dogs at any one time and also small scale dog breeding of 3-5 litters per year.